IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.M.JAMES

THURSDAY, THE 24TH MAY 2007 / 3RD JYAISHTA 1929

OP.No. 8915 of 1997(J)

PETITIONERS:

1. M.V.ACHUTHAN, PREVIOUS OWNER OF ENGINEERING INDUSTRIES, VENU NAGAR, PERINGOOR, PERAMANGALAM, TRICHUR.

2. M.V.SURENDRAN, PRESENT OWNER OF ENGINEERING INDUSTRIES, VENU NAGAR, PERINGOOR, PERAMANGALAM, TRICHUR.

BY ADV. SRI.D.SREEKUMAR

RESPONDENTS:

1. TRICHUR DISTRICT THREAT RUBBER WORKERS CONGRESS (I.N.T.U.C.), SURESH NIVAS, MAROTHICHAL, TRICHUR, REPRESENTED BY ITS GENERAL SECRETARY.

2. THE PRESIDING OFFI CER, INDUSTRIAL TRIBUNAL, PALAKKAD.

BY ADV. SRI.P.RAMAKRISHNAN

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 24/05/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

Order on C.M.P.No.15516/1997 in O.P.No.8915/1997

Dismissed

24.5.2007 Sd/- S.Siri Jagan, Judge.

APPENDIX

PETITIONER'S EXHIBITS:

Ext.P1 A true copy of Certificate B8/1405/96 dated 5.3.96 issued to M/s.Engineering Industries.

Ext.P2 A true copy of Objection filed in ID 43/92 of the Industrial Tribunal Court, Alappuzha, dated 18.2.1993.

Ext.P3 A true copy of Award in I.D.20/94 of the Industrial Tribunal, Palakkad, dated 5.1.1996.

Ext.P4 do. English translation.

RESPONDENT'S EXHIBITS:

NIL

//true copy//

P.S. to Judge.

S. SIRI JAGAN, J.

O.P.No. 8915 of 1997

Dated this the 24th May, 2007.

J U D G M E N T

The ex parte award in I.D.No.20/1994 before the Industrial Tribunal, Palakkad, is under challenge in this Original Petition, at the instance of the managements, who were declared ex party.

2. The issue referred for adjudication was regarding the justifiability of closure of the management-establishment. There were two managements in the Industrial dispute. Both of them failed to appear before the Industrial Tribunal, and, therefore, they were declared ex party. On the basis of the evidence adduced by the Union, the Tribunal came to the conclusion that there was no bona fide closure of the establishment, and the establishment was still functioning with other employees. On such finding, the Tribunal directed the managements to re-instate the seven workmen, who have been denied employment, in service with all benefits.

3. The contention of the petitioner in the Original Petition is that the Tribunal ought to have given the petitioners another opportunity to contest the matter on merits. I do not think that at this distance of time, such a course should be adopted, since the dispute was referred for adjudication in the year 1994, and the award was passed on 5.1.1996. I am also not satisfied with the reasons put forward by the petitioner to show that they had sufficient justification for non-appearance before the Tribunal.

4. When the matter was posted before the Adalath, notice issued by the Adalath to the first petitioner was returned unserved as 'left place', and notice issued to the second petitioner was also returned unserved with an endorsement that, 'abolished, hence returned'. This is also one more reason to hold that no purpose would be served in remanding the matter for fresh consideration, after giving opportunity to the managements to contest the matter.

5. On going through the award, I do not find any infirmity, what so ever, in the award. The Tribunal has discussed the evidence in detail and came to the conclusion of plausible material on record. I do not find any perversity in the findings of fact, in the

absence of which I would not be justified in interfering with such findings of fact, which is settled law.

In the above circumstances, I do not find any merit in the Original Petition. Accordingly, the same is dismissed.

S. SIRI JAGAN,
JUDGE

nj.

S.SIRI JAGAN, J.

O.P.No. 8915 OF 1997

J U D G M E N T

Dated: 24th May, 2007.